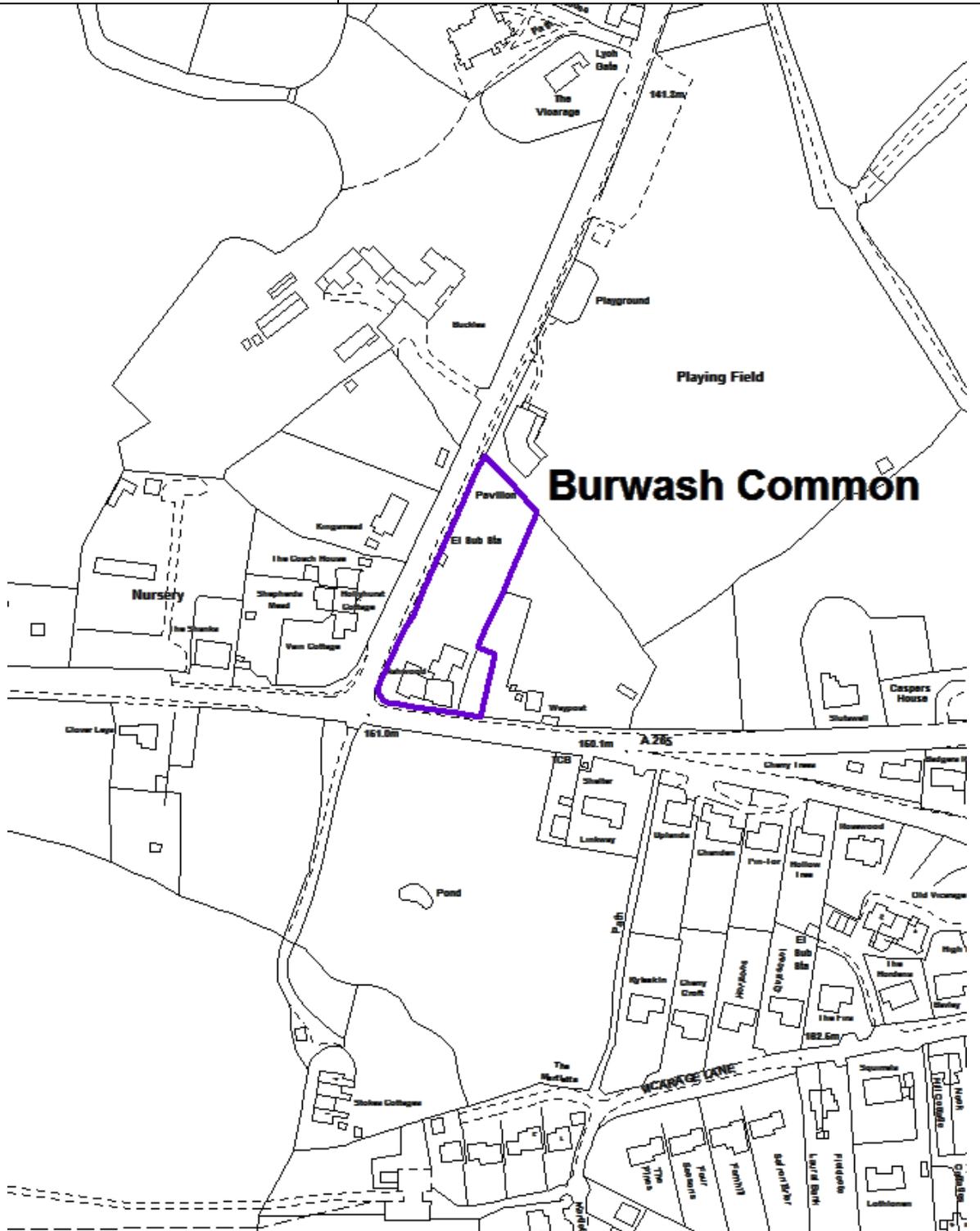


SITE PLAN

BURWASH

RR/2021/1608/P

FORMER ASHWOOD NURSING HOME,  
HEATHFIELD ROAD



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Not to Scale

## Rother District Council

Report to - Planning Committee  
Date - 12 August 2021  
Report of the - Head of Service – Strategy and Planning  
Subject - Application RR/2021/1608/P  
Address - Former Ashwood Nursing Home,  
Heathfield Road,  
Burwash Common  
Proposal - Demolition of existing buildings and redevelopment of site to provide 12 residential units, car parking, cycle and refuse facilities and associated works.

[View application/correspondence](#)

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**RECOMMENDATION:** It be **RESOLVED** to **REFUSE PLANNING PERMISSION**

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**Head of Service: Tim Hickling**

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**Applicant:** Artemis Design & Build Ltd  
**Agent:** Ms H. Greenhalgh  
**Case Officer:** Mr M. Worsley  
(Email: [matthew.worsley@rother.gov.uk](mailto:matthew.worsley@rother.gov.uk))  
**Parish:** BURWASH & THE WEALD  
**Ward Members:** Councillors J Barnes and Mrs E Kirby-Green

**Reason for Committee consideration:** Service Manager – Strategy & Planning referral: Site history.

**Statutory 13-week date: 24 September 2021**

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### 1.0 SUMMARY

1.1 The current application is effectively a resubmission of application RR/2020/1798/P which has been appealed against for non-determination. At the May 2021 Planning Committee meeting, it was resolved to not defend the appeal, against officer recommendation. Despite the previous view of the Planning Committee, officers consider the design issues and consequential adverse impact on the High Weald Area of Outstanding Natural Beauty (AONB) and living conditions of occupiers of the proposed dwellings still remain, together with the lack of justification relating to the loss of the nursing home use, and therefore the recommendation is to refuse planning permission. Since consideration of the previous application, additional issues have been raised by consultees which are outlined below and discussed further in the report.

- 1.2 Some updated plans (site layout, street elevations, proposed site plan and phasing plan) have been submitted with the current application to ensure they correspond with the revised elevation plans submitted during the previous application.
- 1.3 In respect of consultee comments, as this is a major application, Environmental Health have advised the need for an air quality assessment is triggered, in accordance with the Sussex Air Quality Guidance. However, as the site is neither in or near to an Air Quality Management Area and is small in scale and nature, a full air quality assessment is not necessary. Instead, an 'emissions mitigation assessment' is requested.
- 1.4 Environmental Health have requested a noise survey, relating to properties next to the A265. They advise that it is best practice to carry this out up front so that it can be used in the site layout and design for the positioning and orientation of buildings or the location of noise sensitive rooms, which could potentially mitigate the impacts of the noise source. However, if this is not possible, the issue can be addressed via a condition.
- 1.5 The Lead Local Flood Authority has retained their objection from the previous application and has requested infiltration testing is provided upfront. They have advised that they are not able to recommend that the provision of the information is conditioned as it is not yet clear whether surface water runoff can be managed without increasing flood risk elsewhere and therefore not able to remove their objection until the applicant has addressed their comments.
- 1.6 The planning agent and applicant have been asked for the additional information requested from Environmental Health and the Lead Local Flood Authority and were advised that additional recommended reasons for refusal would need to be added if it was not submitted. However, the applicant has advised that they wish the application to be reported to the August Planning Committee meeting and cannot provide the requested information at such a late stage. They are happy for the Planning Committee to decide the application on its merits. As the requested information from consultees has not been received, issues relating to drainage and air quality are added to the recommended reasons for refusal.
- 1.7 Other consultee responses, which are of note, include the Highway Authority who have requested a range of conditions if permission is granted. In relation to affordable housing, as per the comments on the previous application, the Housing Enabling and Development Officer has requested that affordable housing is secured on site (two units) with a 20% commuted sum via a Planning Obligation.

1.8 **PROPOSAL DETAILS**

<b>PROVISION</b>	
No of houses	12
No of affordable houses	2 on-site and 20% commuted sum (not secured by S106)
CIL (approx.)	£285,290
New Homes Bonus (approx.)	£80,208

## **2.0 SITE**

- 2.1 The site measures around 0.35 hectares and comprises of a former nursing home set on a corner plot at the junction between Heathfield Road (A265) and the B2181 (Swing Gate Hill). The nursing home is currently vacant following its closure in 2015. The site is located outside of a defined development boundary and therefore, in planning policy terms, is located within the countryside. It also lies within the High Weald AONB.
- 2.2 The existing building is positioned at the southern end of the site close to the Heathfield Road frontage. The accommodation is arranged over three floors, including within the roof, and consists of the original Victorian property to the east with large modern two storey extensions to the west and at the rear. Vehicular access and an area to park is behind the building, via Swing Gate Hill. The northern part of the site is undeveloped.
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## **3.0 PROPOSAL**

- 3.1 The proposed development is the same as that detailed in application reference RR/2020/1798/P which was appealed against for non-determination (decision pending) and which the Planning Committee have previously resolved not to defend at appeal.
- 3.2 Permission is sought to change the use of the site from a nursing home to residential. This would involve demolishing the existing buildings and erecting a total of 12 residential units to include a block of four flats, a terrace of three dwellings, one pair of semi-detached dwellings, a detached dwelling and two detached self-build dwellings. A 20-space parking court is proposed for the flats and six of the dwellings via the existing access and the self-build units would be served by a new shared access on the northern part of the site. Refuse, cycle facilities and landscaping works are also proposed.
- 3.3 The application follows on from, and has been informed by, pre-application advice on a 14-dwelling scheme for the site. At that stage, the Local Planning Authority raised concerns that too many units were proposed, resulting in a cramped form of development, out of character with its surroundings and this part of the AONB. Concerns were raised over two self-build units proposed on the northern part of the site appearing cramped, together with a large parking area.
- 3.4 Within the accompanying Planning Statement it is explained that, prior to submission of the application, the Applicant undertook extensive consultation with the local community, including Burwash Parish Council, Burwash Common Residents Association, Burwash Save our Fields and local residents. This included attending public meetings with Burwash Parish Council and Burwash Residents Association (pre-COVID), attending 'Zoom' meetings with Burwash Parish Council and Burwash Save our Fields, meeting and liaising with neighbours, email exchanges with Councillors and undertaking a wider consultation exercise with the nearby Burwash Common residents. Exhibition boards were displayed at the site and feedback forms were left so people could comment on the proposal. Twenty feedback forms and some emails were received. The Planning Statement explains that these were generally very positive.

- 3.5 The Planning Statement explains that as a result of the consultation exercise, the Applicant incorporated changes to the proposed development, including:
- Reducing the number of units from 14 to 12.
  - Redesigning the flats on the corner to reduce the massing and give the impression of being a large house.
  - Replacing the four semis facing Heathfield Road with a terrace of three houses, redesigned to front the main road and to reflect the Burwash Common vernacular, together with gardens at the rear.
  - Replace one of the pair of semis with a single detached dwelling.
  - Reduce the amount of car parking and increase the amount of landscaping in the car park.
  - Removed a garage from one of the self-build units and reworked their amenity space.
- 3.6 Accompanying the application is a Planning Statement, a Marketing Report, a Viability Report, a Design and Access Statement, a Landscape and Visual Evidence and Impact Appraisal, an Ecological Assessment, an Arboricultural Implications Assessment, an Historic Environment Record Report, a Flood Risk Assessment and Drainage Strategy, a Transport Statement and a Highway Consultant Technical Note.

#### **4.0 HISTORY**

- 4.1 RR/2020/1798/P Demolition of existing buildings and redevelopment of site to provide 12 residential units, car parking, cycle and refuse facilities and associated works – Appeal against non-determination – Planning Committee resolved not to defend – Appeal undetermined.
- 4.2 RR/2019/2772/PIP Change of use of redundant C2 nursing home to provide seven to nine residential units – Withdrawn.
- 4.3 RR/2020/338/PIP Change of use and conversion of redundant C2 nursing home to provide seven to nine residential units – Withdrawn.
- 4.4 RR/2005/3252/P Erection of single storey lobby to form lobby at side – Approved.
- 4.5 RR/2005/588/P Erection of new extension to existing nursing home with alterations to vehicular access (phase 1) and demolition of existing 19<sup>th</sup> century building and erection of a new extension (phase 2), with provision of 10 parking spaces and formation of new vehicular access – Approved Conditional (not implemented).
- 4.6 RR/2004/1299/P Erection of two storey side and rear extensions and alterations with provision of new vehicular and pedestrian accesses and closure of existing access – Refused.

4.7	RR/2003/1544/P	Erection of additional accommodation and ancillary facilities to side and rear of nursing home and additional car parking and external works – Approved Conditional.
4.8	RR/93/1018/P	Extension to nursing home also extension of curtilage of the property and erection of pavilion – Refused.
4.9	RR/93/0211/P	Extension to nursing home – Refused – Appeal Dismissed.
4.10	RR/89/0480/P	Side extension to provide 8 additional rooms, lift and enlarged owners flat – Approved Conditional.
4.11	RR/85/0393	Single storey rear extension, conversion and change of use of single dwelling to 8-bedroom residential nursing home – Approved Conditional.

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## 5.0 POLICIES

5.1 The following ‘saved’ policy of the adopted [Rother District Local Plan 2006](#) is relevant to the proposal:

- DS3 (development boundaries)

5.2 The following policies of the [Rother Local Plan Core Strategy 2014](#) are relevant to the proposal:

- PC1 (presumption in favour of sustainable development)
- OSS1 (overall spatial development strategy)
- OSS2 (use of development boundaries)
- OSS3 (location of development)
- OSS4 (general development considerations)
- RA2 (general strategy for the countryside)
- RA3 (development in the countryside)
- SRM1 (towards a low carbon future) (Note that part (i) was superseded by the Rother District Council Development and Site Allocations (DaSA) Local Plan)
- SRM2 (water supply and wastewater management)
- CO6 (community safety)
- LHN1 (achieving mixed and balanced communities)
- EN1 (landscape stewardship)
- EN3 (design quality)
- EN5 (biodiversity and green space)
- TR3 (access and new development)
- TR4 (car parking)

5.3 The following policies of the [Development and Site Allocations Local Plan](#) are relevant to the proposal:

- DRM1 (water efficiency)
- DHG1 (affordable housing)
- DHG3 (residential internal space standards)
- DHG4 (accessible and adaptable homes)
- DHG7 (external residential areas)
- DHG11 (boundary treatments)

- DHG12 (accesses and drives)
- DEN1 (maintaining landscape character)
- DEN2 (AONB)
- DEN4 (biodiversity and green space)
- DEN5 (sustainable drainage)
- DEN7 (environmental pollution)
- DIM2 (development boundaries)
- OVE1 (housing supply and delivery pending plans)

5.4 The Burwash Neighbourhood Plan (BNP) has been examined, with the Examiner's report recommending modifications to enable the BNP to proceed to Referendum. The Local Planning Authority is aiming to issue a decision statement over the coming weeks detailing its intention to send the BNP to referendum, at which point, government guidance states that the plan can be given significant weight in decision-making, so far as the plan is material to the application. Relevant policies within the BNP include:

- GP01 (protection of the AONB landscape) (subject to modifications)
- GP04 (development boundaries) (subject to modifications)
- GP05 (design standards) (subject to modifications)
- GP08 (sustainable development) (subject to modifications)
- EN02 (natural environment protection) (subject to modifications)
- EN04 (dark skies) (subject to modifications)
- IN01 (pedestrian safety) (subject to modifications)
- IN02 (parking) (subject to modifications)

5.5 The National Planning Policy Framework, Planning Practice Guidance (PPG), High Weald AONB Management Plan 2019 – 2024, High Weald Housing Design Guide and Sussex Air Quality Guidance are also material considerations.

## 6.0 CONSULTATIONS

### 6.1 Highway Authority – **NO OBJECTION**

6.1.1 The proposed development would result in an increase of vehicle movements. However, the access meets the requirement for the development. Appropriate visibility splays appear achievable from both accesses and could be conditioned. The East Sussex County Council (ESCC) parking calculator recommends that 23.71 parking spaces are provided on-site. 24 spaces are proposed, with adequate on-site turning detailed. In terms of accessibility, the rural location is noted. The comments explain that the nearby bus stops are not up to current standards, with the eastbound bus stop located at the site boundary on Heathfield Road only made up of a flag pole and the westbound bus stop having a shelter hidden by vegetation and not served by a crossing to it, meaning there is little to identify it. A Travel Plan Statement with appropriate mitigation measures is requested to be submitted via condition to inform and encourage sustainable modes of transport. Conditions are also requested in relation to access, visibility, parking drainage and footpath clearance.

### 6.2 Environment Agency – **GENERAL COMMENTS**

6.2.1 General advice provided relating to flood risk, groundwater and contaminated land, waste, ecology and Environmental Permitting Regulations.

6.3 Southern Water – **ANY COMMENTS WILL BE REPORTED**

6.3.1 Comments on RR/2020/1798/P (summarised): Initial investigations indicate that there are no public surface water sewers in the area to serve this development. Alternative means of draining surface water from this development are required. This should not involve disposal to a public foul sewer. No surface water should be permitted to be discharged to the foul sewerage system, in order to protect properties downstream from flooding.

6.4 Environmental Health – **GENERAL COMMENTS**

6.4.1 Noise report requested due to potential noise impact on the future occupiers of the proposed dwellings. Also requests an ‘emissions mitigation assessment’ is carried out. Mitigation can include the promotion of cycling and walking, public transport, car clubs, low emission vehicles and associated infrastructure such as electric vehicle charge points. Conditions are recommended relating to contaminated land (due to it being a brownfield site), securing a Construction Management Plan and limiting the hours deliveries during the construction phase.

6.5 Sussex Police – **NO OBJECTION**

6.5.1 No major concerns with the proposals, however, additional measures to mitigate against any identified local crime trends and site-specific requirements should always be considered. Communal parking must be in view of an active room within the property. Advice provided on security measures in relation to boundary treatments and lighting. Access control is recommended for the flats.

6.6 County Archaeologist – **NO OBJECTION**

6.6.1 Conditions recommended relating to a programme of archaeological works.

6.7 ESCC Housing Commissioning Team (Adult Social Care) – **ANY COMMENTS WILL BE REPORTED**

6.8 ESCC – Lead Local Flood Authority – **OBJECT**

6.8.1 *‘...Infiltration testing should be undertaken to BRE365 standard in the location and at the depth of the proposed soakaways. Until this has been carried out, it is not clear that infiltration will be a feasible method for managing surface water runoff from the development.*

*Groundwater monitoring should also be carried out between November and April to understand groundwater levels beneath the site. A 1m unsaturated zone should be maintained from the base of the proposed soakaways and the highest recorded groundwater level to avoid groundwater ingress and to ensure that surface water runoff is adequately treated before entering the water table.*

*Should infiltration not be feasible at the site, the applicant has submitted an alternative drainage strategy, however, this relies on discharging to the foul sewer beneath the highway adjacent to the west of the site. Discharging to the*

*foul sewer is the least sustainable outfall location for surface water disposal as detailed by the drainage hierarchy in CIRIA SuDS Manual (C753).*

*We acknowledge that there are no surface water sewers located near the site, however, we require that the applicant engages with Southern Water to confirm that they agree to allow surface water runoff to continue to discharge to the foul system.*

*We note that Southern Water previously stated in a letter dated 1 January 2021 that 'No surface water should be permitted to be discharged to the foul sewerage system, in order to protect properties downstream from flooding'. We therefore require that the applicant consults Southern Water further to confirm that they agree to the continued discharge of surface water runoff to the foul sewer and to confirm capacity available within the foul sewer for any additional flows.*

*We are not able to recommend that the provision of the above information is conditioned as it is not yet clear whether surface water runoff can be managed without increasing flood risk elsewhere. We are therefore not able to remove our objection until the applicant has addressed our comments...'*

6.9 East Sussex Fire Brigade – **ANY COMMENTS WILL BE REPORTED**

6.10 High Weald AONB Unit – **ANY COMMENTS WILL BE REPORTED**

6.10.1 Comments for RR/2020/1798/P (summarised): The number of units proposed for this site results in a cramped layout particularly at the southern end of the site around the road access. This is dominated by car parking and hard surfaces, resulting in a poor impact on the character of the area and very limited amenity area for residents. It is recommended that the number of units in this area of the site be reduced to address these design problems.

6.11 Clinical Commissioning Group – **ANY COMMENTS WILL BE REPORTED**

6.12 RDC Waste and Recycling – **GENERAL COMMENTS**

6.12.1 No issues regarding waste collections as the truck can reverse into the main part of the development.

6.13 RDC Housing – **GENERAL COMMENTS**

6.13.1 Advice provided relating to securing the affordable housing provision via a Planning Obligation.

6.14 Planning notice

6.14.1 Six letters of objection have been received. The concerns raised are summarised as follows:

- Application is the same as the previous submission.
- Cramped development.
- Too great a density for the size of the site.
- Three storey homes out of character.
- Self builds out of keeping with the AONB.
- Very few amenities in the village.
- Drainage concerns – very high-water table – where will all the excess water go?

- Big impact on neighbouring playing field.
- Insufficient car parking.
- Overspill parking will occur on the roads.
- Pedestrian safety adversely affected.
- Highway safety adversely affected due to so many vehicle movements close to the A265.
- Plot 3 will overlook their property and rear garden.
- Plot 3 is out of keeping with the rest of the development.
- Pavement and verge appear to have been altered.
- A tree originally identified to stay has now disappeared.

6.14.2 One letter of support has been received. The reasons are summarised as follows:

- Will significantly improve housing availability in the local area.
- No doubt the Council's decision will include careful consideration of Artemis Design & Build's capacity to complete.

## 6.15 Parish Council – **GENERAL COMMENT**

6.15.1 *'Burwash Parish Council generally support this application with particular note to the sensitive design. However, the Planning Committee continue to have reservations about the density and note that reservations outlined by Rother District Council have not been addressed in this new submission.'*

## **7.0 LOCAL FINANCE CONSIDERATIONS**

7.1 The proposal is for a type of development that is CIL liable. The total amount of CIL money to be received is subject to change, including a possible exemption, but the development could generate approximately £285,290.

7.2 The proposal is one that would provide New Homes Bonus (subject to review by the Government). If New Homes Bonus were paid it could, assuming a Band D property, be approximately £80,208 over four years.

## **8.0 APPRAISAL**

8.1 The main issues to consider in the determination of the application include:

- Principle/policy position.
- Loss of a community facility.
- Location.
- AONB and design.
- Living conditions of occupiers.
- Neighbouring amenities.
- Trees, hedgerows and biodiversity.
- Affordable housing and housing mix.
- Highway safety.

### 8.2 Principle/Policy Position

- 8.2.1 The site is located outside of a recognised development boundary and therefore in policy terms lies within the countryside. The existing building on the site is not considered to be an ‘undesigned heritage asset’ and therefore there would be no objection in principle to its demolition and replacement with another building/buildings.
- 8.2.2 However, being outside a recognised development boundary, the proposal is contrary to Policy OSS2 of the Rother Local Plan Core Strategy, which advocates that development boundaries around settlements will continue to differentiate between areas where most forms of new development would be acceptable and where they would not. Nevertheless, the Council cannot currently demonstrate a 5-year housing supply.
- 8.2.3 Given that there is no neighbourhood plan in force for the parish, Policy OVE1 of the DaSA is applicable. This states:  
*Until such time as a Neighbourhood Plan for the relevant settlement with an outstanding Core Strategy housing requirement is in force, planning applications will be favourably considered for development proposals in those settlements where:*
- (i) they contribute to meeting the housing target for that settlement and accord with the relevant spatial strategy; and*
  - (ii) the site and development proposals are otherwise suitable having regard to other relevant policies of the Core Strategy, including the considerations in OSS2 and OSS3, and of this Plan.*
- 8.2.4 Policy RA1 (v) and associated Figure 12 of the Rother Local Plan Core Strategy require 50 dwellings to be provided within the village of Burwash over the plan period. There is no residual housing requirement for Burwash Common and therefore any housing provided there would not count towards the housing target for Burwash, contrary to Policy OVE1 (i) of the DaSA.
- 8.2.5 Despite the policy conflict outlined above, the Council has currently only 2.87 years of a required 5-year housing supply, which means that the presumption in favour of sustainable development outlined in paragraph 11 d) of the National Planning Policy Framework is applicable to Rother unless, i) the application of policies in the National Planning Policy Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or ii) any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the National Planning Policy Framework taken as a whole. However, this does not mean that housing schemes which are unacceptable for other sound planning grounds must be allowed; but it does add weight to the benefits that the contribution to boosting housing supply would bring when determining planning applications.
- 8.2.6 The site is also considered brownfield land. Paragraph 120 (c) of the National Planning Policy Framework requires substantial weight to be given to the value of using suitable brownfield land within settlements for homes and other identified needs. Whilst there is no residual housing requirement for Burwash Common, it is still considered a small hamlet where paragraph 118 (c) is applicable.

### 8.3 Loss of a community facility

- 8.3.1 Policy RA1 of the Rother Local Plan Core Strategy states that the needs of the rural villages will be addressed by (iii) ensuring thriving and viable rural communities, by retention of, and support for, local shops, services and public houses in villages.
- 8.3.2 Rother Local Plan Core Strategy Policy CO1: Community Facilities and Services states:  
*The availability of community facilities to meet local needs will be achieved by:*  
*(iii) Not permitting development proposals that result in the loss of sites or premises currently or last used for community purposes unless:*  
*(a) alternative provision of the equivalent or better quality is available in the local area or will be provided and made available prior to the commencement or redevelopment of the proposed scheme; or*  
*(b) it can be demonstrated there is no reasonable prospect of retention for the current use and that no other community use of the site is suitable or viable.*
- 8.3.3 DaSA Policy DCO1: Retention of Sites of Social or Economic Value states:  
*In accordance with the presumptions set in the Local Plan Core Strategy, proposals that involve the loss or diminution of sites of social or economic value\*, including those last in such use, must demonstrate that there is no reasonable prospect of a continued use, backed by:*  
*(i) evidence of a comprehensive and sustained marketing campaign, which clearly indicates a lack of demand for the existing use (or as an alternative commercial or community facility, where appropriate), based on marketing, normally at least 18 months, that offers the land or unit/s for sale, or rental, at a realistic valuation of the site/premises for that use; and*  
*(ii) evidence that clearly demonstrates that the unit is not or is not capable of being financially viable, including alternative commercial or community facilities, where appropriate.*  
*[\* This includes a community facility, public house, shops outside of defined Town or District Centres, tourist accommodation or attraction and an employment use.]*
- 8.3.4 In respect of the requirements relating to Policy DCO1, Paragraph 3.6 of the DaSA states that:  
*A comprehensive, sustained campaign must be undertaken, offering the premises for sale or for rent, at a realistic valuation of the premises for the permitted use... Details should accompany relevant planning applications, including a minimum of two independent valuations of the building in its current condition/state.*
- 8.3.5 In addition, paragraph 3.8 of the DaSA explains that the Council would normally obtain independent verification of the viability evidence submitted, to be undertaken at the developer's expense.
- 8.3.6 The Planning Statement lists some nearby care homes which are said to provide better alternative accommodation. However, the use proposed to be lost is a nursing home as opposed to a care home. Alternative provision of the community facility is not proposed and therefore to be policy compliant, and for the loss of the nursing home to be acceptable, strong justification which meets the tests set out in Policies CO1 (iii) (b) and DCO1 (i) and (ii) needs to

be provided. In this regard, the Applicant has submitted both a Viability Report and Marketing Report.

- 8.3.7 The Viability Report has been produced by PT Projects Ltd, a firm of quantity surveyors and cost consultants. It considers the viability of either the full refurbishment of the care home, in its current form, to create a standards compliant facility providing 19 care rooms or alternatively the redevelopment of the care home to create a 44 bedroom unit facility, which had previously received Planning Approval in 2005, although the permission was not implemented and has since expired. The report concludes:

*“All options require substantial capital investment at a time of great uncertainty in the sector and it is difficult to see a business opportunity for the Care Home venture or a Community Facility... We would propose in this instance and from a cost investment angle that Care Home refurbishment, new build Care Home development or the potential provision of Community Facility are not viable options.”*

- 8.3.8 The Marketing Report was produced by Crickmay Chartered Surveyors and sets out the marketing of the property since February 2018, where offers in the region of £1m were sought. It states that the site was marketed for continued C2 use, other community uses, as well as other development opportunities. In February 2019, the price of the site was reduced to ‘offers in excess of £750,000’ and up to August 2019 there had been a total of 32 enquiries with only five of them being for continued C2 use. In August 2019, an unconditional offer below the marketing figure was accepted with the sale completing in December 2019.

- 8.3.9 As required by paragraph 3.8 of the DaSA, during the previous application, the Local Planning Authority sought permission from the planning agent to obtain independent verification of the viability evidence submitted, to be undertaken at the Applicant’s expense. The planning agent responded by explaining that they saw no justification in the overall planning balance for the Council to require a further independent report at the Applicant’s expense, when they had already submitted a report on viability from an independent RICS qualified surveyor. They were of the view that Policy DCO1 allows flexibility and discretion depending on the circumstances of a case. In terms of the application site, the planning agent explains that the nursing home has been shut for six years following de-registration in 2015 after failing an inspection by the CQC in 2014 and 2015 when the Commission deemed the service ‘inadequate’ in all areas. Bearing in mind the marketing and viability evidence submitted in support of the application; the existence of other community uses in Burwash Common, Burwash Weald and Burwash; and the availability of alternative care home facilities in the local area, the agent was of the view that it is questionable what, if any, other community uses could utilise the application site.

- 8.3.10 Whilst Policy DCO1 of the DaSA allows some discretion over which cases require independent verification, this only relates to the obvious, clear cut cases. Having the viability report independently verified would have allowed the Local Planning Authority to fairly assess the submitted financial details on the two nursing home redevelopment schemes and alternative community uses to make a judgement over the compliance with the relevant policies. However, independent verification was not agreed with the Applicant during the previous application, and no offer to have it independently verified

accompanies the current application, and therefore it has not been satisfactorily demonstrated that the nursing home or alternative commercial or community facilities are not capable of being financially viable, contrary to Policies CO1 (iii) (b) and DCO1 (i) and (ii) of the DaSA.

#### 8.4 Location

8.4.1 Burwash Common contains some services including a local shop, café and garden centre, a cricket club/community centre, a large recreation ground, a children's play area and a church.

8.4.2 There is also a bus stop opposite the site, serving the 231 route, which is a weekday service to Etchingham and Burwash to the east and Heathfield and Uckfield to the west. There are currently seven buses per weekday from Etchingham to Uckfield and six per weekday from Uckfield to Etchingham.

8.4.3 Nevertheless, it is considered that the services within Burwash Common are somewhat limited, which is the reason behind there being no residual housing requirement for Burwash Common within the Rother Local Plan Core Strategy. Occupiers of any dwellings on the site would have some limited access to public transport during the week but would be reliant on private modes of transport at weekends. It is also the case that, whilst there are some limited services within Burwash Common, occupiers would need to travel further afield to access a wider range of facilities and services.

8.4.4 There are some concerns that the development would, to some extent, undermine the aims of local and national planning policies, which seek to direct development, and that of residential accommodation, to settlements where there is ready access to facilities and thus minimises the need to travel and supports the transition to a low carbon future. However, it is acknowledged that there are public transport options and the site is brownfield land. It is also the case that paragraph 105 of the National Planning Policy Framework advises that opportunities to maximise sustainable transport solutions will vary between urban and rural areas.

#### 8.5 AONB and design

8.5.1 Section 85 of the Countryside and Rights of Way Act 2000 provides that, in exercising or performing any functions in relation to, or so as to affect, land in an AONB, a relevant authority shall have regard to the purpose of conserving and enhancing the natural beauty of the AONB. The essential landscape character of the High Weald AONB that makes it special is described within the Statement of Significance within the AONB Management Plan 2019-2024. The plan also sets objectives for the management of the AONB relating to geology, landform and water systems; settlement; routeways; woodland; field and heath; land-based economy and related rural life; and other qualities.

8.5.2 Paragraph 174 of the National Planning Policy Framework states that decisions should contribute to and enhance the natural and local environment by a) protecting and enhancing valued landscapes and b) recognising the intrinsic character and beauty of the countryside.

8.5.3 Paragraph 176 of the National Planning Policy Framework sets out that great weight should be given to conserving and enhancing landscape and scenic

beauty in AONBs, which have the highest status of protection in relation to these issues. It explains that the conservation and enhancement of wildlife and cultural heritage are also important considerations.

- 8.5.4 Policy OSS4 (iii) of the Rother Local Plan Core Strategy requires that all development respects and does not detract from the character and appearance of the locality.
- 8.5.5 Policy RA2 of the Rother Local Plan Core Strategy sets out the overarching strategy for the countryside outside the main confines of settlements, including: (viii) generally conserving the intrinsic value, locally distinctive rural character, landscape features, built heritage, and the natural and ecological resources of the countryside.
- 8.5.6 Policy RA3 (v) of the Rother Local Plan Core Strategy requires that all development in the countryside is of an appropriate scale, will not adversely impact on the landscape character or natural resources of the countryside and, wherever practicable, support sensitive land management.
- 8.5.7 Policy EN1 provides for the protection, and wherever possible enhancement, of the district's nationally designated and locally distinctive landscapes and landscape features including (i) the distinctive identified landscape character, ecological features and settlement pattern of the AONB and (v) open landscape between clearly defined settlements, including the visual character of settlements, settlement edges and their rural fringes.
- 8.5.8 Policy EN3 of the Rother Local Plan Core Strategy states that new development will be required to be of high design quality by:
- (i) Contributing positively to the character of the site and surroundings, including taking opportunities to improve areas of poor visual character or with poor townscape qualities.
  - (ii) Demonstrating robust design solutions tested against the following Key Design Principles as appropriate, tailored to a thorough and empathetic understanding of the particular site and context:
    - (a) Character, Identity, Place-Making and Legibility.
    - (b) Continuity and Enclosure.
    - (c) Quality of Public Realm, Ease of Movement, and 'Secured by Design'
    - (d) Diversity.
    - (e) Landscape Setting of Buildings and Settlements.
    - (f) Design in Context (Understanding and appraisal of site and wider setting, and incorporation of existing site features into proposals).
    - (g) Building Appearance & Architectural Quality.
    - (h) Sustainable Design and Construction.
- 8.5.9 Paragraph 130 of the National Planning Policy Framework sets out a range of criteria relating to design including that developments (b) are visually attractive as a result of good architecture, layout and appropriate and effective landscaping; and (c) are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities).
- 8.5.10 Turning to the DaSA, Policy DEN1 provides that the siting, layout and design of development should maintain and reinforce the natural and built landscape

character of the area in which it is to be located, based on a clear understanding of the distinctive local landscape characteristics, in accordance with Rother Local Plan Core Strategy Policy EN1. Particular care will be taken to maintain the sense of tranquillity of more remote areas, including through maintaining 'dark skies' in accordance with Policy DEN7.

- 8.5.11 Policy DEN2 of the DaSA states that all development within or affecting the setting of the High Weald AONB shall conserve and seek to enhance its landscape and scenic beauty, having particular regard to the impacts on its character components, as set out in the High Weald AONB Management Plan. Development within the High Weald AONB should be small scale, in keeping with the landscape and settlement pattern; major development will be inappropriate except in exceptional circumstances.
- 8.5.12 The High Weald AONB is characterised by green rolling countryside, of a pastoral nature, punctuated by small areas of woodland, small towns, villages and hamlets. The application site is located outside of the development boundary for Burwash Common, but is positioned amongst other development, with residential properties present to the east and on the opposite side of the road to the west, and the pavilion to the north. On the opposite side of the road to the south are open undeveloped fields.
- 8.5.13 It is proposed to demolish the existing buildings on the site and remove the hardstanding. On the southern part of the site fronting Heathfield Road, a terrace of three two storey dwellings with dormers in the roof together with a block of four flats would be provided, behind which would be areas to park. In the centre of the site, a detached dwelling would be proposed facing out onto Swing Gate Hill, with a pair of semi-detached dwellings behind. These properties would also have dormers in the roof. On the north part of the site would be two self-build units to be served by a new access. These two properties would be of a contemporary design. Mono-pitched roofs are proposed which would increase in height from the front to the rear providing a single storey appearance when viewed from the front, whilst to the rear they would be two storeys with large areas of glazing.
- 8.5.14 The Landscape and Visual Evidence and Impact Appraisal (volume 1) accompanying the application sets out the main opportunities for the site. It advises that higher density development could be provided on the A265 frontage to replace the existing prominent building. Along Swing Gate Hill it explains that there is the opportunity to provide lower density development to retain the pattern of development and vegetation. The other opportunities set out include creating a focal point to the entrance of the settlement on the southwest boundary of the site, together with the retention of boundary vegetation and trees.
- 8.5.15 The proposal has been amended since the pre-application scheme in 2020, where the Local Planning Authority raised layout and design concerns. The scheme has addressed some of those concerns, but not others, and some comments have been superseded by the amendments.
- 8.5.16 The scheme poses many positive elements. The southern road frontage development is generally successful in scale and massing, and terrace 6-8 read well as a late Victorian style terrace, articulated with chimneystacks, although the dormers to these and to units 4 and 5 are quite large, giving a

top-heavy appearance. The apartment block is successfully fragmented in form and massing. However, the gable pediment to the southern elevation appears squat and would be more successful if the pitch were increased to 50 degrees. Unit 3 presents an attractive, active frontage to Swing Gate Hill.

- 8.5.17 The other key layout and design concerns relate to the internal car-parking arrangement within the site and the character created in this area by the proposed approach, together with the plot sizes and garden space afforded to the two self-build units in the northern part of the site.
- 8.5.18 In respect of the internal car-parking, the proposal contains swathes of effectively forecourt car-parking and a large expanse of hardstanding (notwithstanding the range of surface materials proposed for this). There is also a lot of 'left-over' and somewhat ambiguous space around this car-parking area. This approach is more akin to suburban housing estate parking provision and is out of character with the prevailing pattern and character in the High Weald. The same can be said for the consequential lack of definition and enclosure of the southern boundaries of Plots 3, 4, and 5, which is not considered to be an acceptable design approach. Concerns over the parking layout were also raised by the High Weald AONB Unit during the previous application. Additionally, the two car-parking spaces accessed north and south off the entrance into the development are far too near the entrance mouth to be practical.
- 8.5.19 There are also concerns relating to boundary treatments in respect of the proposed close-boarded fences around the rear gardens of Plots 6, 7 and 8, and to the side of Plot 8. They would be viewed very prominently from within the site's internal road and would result in a harsh, suburban appearance.
- 8.5.20 Turning to the two self-build units, there are no concerns with the contemporary architectural approach. However, the two dwellings shown appear cramped and occupy plots disproportionate in size to their footprint, at odds with the more spacious plots in the vicinity. They do not provide for sufficient distance between the dwellings (less than 5m), on elevations which contain the only windows to some habitable rooms, nor does the Plot 2 dwelling have sufficient garden and external amenity space when considering the impact of the canopy coverage of retained trees T12, T10 and T6. As such, this element of the proposal is considered out of character with and harmful to the character and appearance of this part of the AONB.
- 8.5.21 Overall, the scheme submitted is not considered to be of an acceptable standard of design and would be harmful to the character and appearance of the AONB, contrary to Rother Local Plan Core Strategy and DaSA policies, together with the National Planning Policy Framework and High Weald Housing Design Guide.

## 8.6 Living conditions of occupiers

- 8.6.1 In terms of the nationally prescribed housing standards required by Policy DHG3 of the DaSA, all the proposed dwellings would meet or exceed the standards.
- 8.6.2 DaSA Policy DHG7 requires rear gardens to normally measure at least 10m in length. All the rear gardens would be 10m in length, save for Plot 4, which

would measure around 9.5m in length. However, the garden would be greater in overall area than Plots 7 and 8. Therefore, the slight shortfall in length is not objected to.

- 8.6.3 Despite the private rear garden of the Plot 2 self-build unit meeting the minimum 10m length requirement, there are mature trees on the east boundary which would overshadow most of the garden, which would severely constrain its usability and would result in a poor level of amenity to future occupiers. This type of situation is addressed in paragraph 4.70 of the DaSA and explains that where usability of external space is constrained, such as by sloping ground, orientation, the presence of large trees or where there is a strong, well-established spacious character, larger gardens are more appropriate.
- 8.6.4 The two self-build units would be positioned less than 5m apart. Whilst this may not always present an issue, in this case the facing elevations contain the only windows to some habitable rooms (bedrooms), which would result in a poor level of outlook to occupiers.
- 8.6.5 There are also concerns over the position of an internal footpath to the north of flat 2, which is immediately adjacent to a bedroom window. Other residents using the footpath would be able to walk past the window and have direct views into the bedroom which would create privacy issues and have an adverse impact on the amenity of occupiers of flat 2.
- 8.6.6 Due to the close proximity of the development to the A265, a noise survey has been requested by Environmental Health. They advise that it is best practice to carry this out up front so that it can be used in the site layout and design for the positioning and orientation of buildings or the location of noise sensitive rooms, which could potentially mitigate the impacts of the noise source. However, if this is not possible, the issue can be addressed via a condition, if minded to grant permission.

## 8.7 Neighbouring amenities

- 8.7.1 Policy OSS4 of the Rother Local Plan Core Strategy requires all development to (ii) not unreasonably harm the amenities of adjoining properties.
- 8.7.2 There are surrounding neighbouring residential properties which would see a change to the appearance of the site brought by the proposed residential redevelopment, with buildings introduced to the northern part of the site where presently there are none. However, the properties to the west are on the opposite side of the road and there would be more than 20m between the buildings which is usually considered sufficient for no unacceptable levels of overlooking to occur. It is also the case that the development would not appear unreasonably overbearing.
- 8.7.3 The property to the east, 'Waypost', is positioned more than 20m from the shared boundary. The separation is considered sufficient for no unacceptable levels of overlooking to occur or for the development to appear overbearing. It is acknowledged that first floor balconies are proposed to the rear of the two self-build units which would face towards the end of the rear garden of Waypost. However, the balconies would be set away from the boundary by around 10m, there is vegetation screening on the boundary and Waypost. No

unacceptable levels of direct overlooking are expected to occur from the balconies.

## 8.8 Trees, hedgerows and biodiversity

- 8.8.1 Policy EN5 (viii) of the Rother Local Plan Core Strategy requires development to retain, protect and enhance habitats of ecological interest, including ancient woodland, water features and hedgerows, and provides for appropriate management of these features.
- 8.8.2 There are many trees present on the application site and in the garden of the neighbouring property to the east 'Waypost'. The application is accompanied by an Arboricultural Implications Assessment and the neighbouring occupier also submitted an Arboricultural Report assessing trees in the occupiers' ownership during the previous application. The Arboricultural Implications Assessment comments on the neighbouring occupiers' report.
- 8.8.3 The Arboricultural Implications Assessment submitted with the application explains that the development will result in the removal of eight individual trees, one group of two trees and parts of two existing hedgerows. They are explained to be BS category C or U and relatively small and young. Their loss is explained to not have a significant impact on local visual amenity and would be offset by extensive new planting. In respect of the report commissioned by the neighbouring occupiers, the potential impacts are explained to be unfounded. It is stated that the layout and design has taken account of the vegetation on the neighbouring site and impacts would be minimised in accordance with BS5837:2012 recommendations. Tree protection measures and appropriate construction methodologies are recommended, with associated plans and advice provided within appendix documents.
- 8.8.4 The Arboricultural Report previously submitted by the occupier of the neighbouring property assesses the trees in their ownership on the western boundary of their site. This report explains the site in its entirety is home to a collection of rare and unusual trees and plants. Few, if any, native tree species occupy the garden and each single plant has been selected, sourced, (or grown from seed), and planted by the owners representing a great investment both in time and money. The report states that the garden represents far more than simply a physical asset or 'hobby gardening' and must be considered a professionally executed plant collection, likely unique in a private setting. The gardens have matured over the past 20 years to form a unique and unusual private space. The report concludes that there is potential for root damage to some larger trees on the boundary. It notes that unit 7 is close to the western boundary of Waypost. The proximity of the physical structures is thought to present pressure to prune trees in the future and its foundations may disrupt ground water permeation. The paved area to the side of unit 7 is identified as being within the root protection area of a boundary tree. Some form of buffer is suggested. T14 is identified as a high value tree within the garden of unit 7. Protection measures are recommended. A parking space for unit 7 is also identified as being close to the root protection areas of trees. Tree protection measures are recommended.
- 8.8.5 The Arboricultural Implications Assessment submitted with the application and the Arboricultural Report produced by the neighbouring occupier both explain that the development has the potential to impact on trees, although the impact

on those on the neighbouring site is downplayed in the Applicant's assessment. Nevertheless, tree protection measures are proposed, and this could be secured via condition(s) if permission were granted.

8.8.6 In terms of ecology, an Ecological Survey accompanies the application. This concludes that there was no risk of great crested newts being affected by the proposal and that there were no badger field signs or setts present on the site. Some evidence of low-key bat activity was recorded in the existing building, with three droppings found. However, no other evidence of bat roosting was found, and this was confirmed by an emergence survey. In respect of dormice, the hedgerow on the site is explained to be thin and relatively monospecific, with no nests present. The garden area is explained to be too thin and disturbed to serve as a suitable habitat for common reptiles. In summary, the survey explains that there was no evidence of or habitat suitable for protected or notable species within the survey area. However, to minimise the impacts upon biodiversity, enhancement measures are suggested including the provision of bird and bat boxes, log piles for invertebrates, bumble bee nest boxes and a scheme for native species landscaping. These enhancements could be secured via condition if planning permission were granted.

## 8.9 Highway safety

8.9.1 Policy CO6 (ii) of the Rother Local Plan Core Strategy requires all development avoids prejudice to road and/or pedestrian safety. Policy TR4 of the Rother Local Plan Core Strategy states that proposed development shall (i) meet the residual needs of the development for off-street parking having taken into consideration localised circumstances and having full regard to the potential for access by means other than the car, and to any safety, congestion or amenity impacts of a reliance on parking off-site whether on-street or off-street.

8.9.2 The Highway Authority has advised that the proposed development would lead to an increase in trips at the site. The previous nursing home use (19 bedrooms) would have generated around 35 trips daily, whereas the proposal would generate approximately 54 daily trips. However, they are satisfied that the accesses can provide adequate visibility (2.4m x 120m in both directions).

8.9.3 Parking provision on the site has been a common area of concern from local residents. They are concerned that an inadequate number of spaces are proposed, and vehicles would end up parking on the main road. However, the Highway Authority has advised that the ESCC parking calculator indicates that 23.71 parking spaces should be provided on site. A total of 24 are proposed, and thus adequate parking provision is considered to have been proposed. In addition, secure storage for bicycles is proposed. The Highway Authority has advised that the plans show the parking spaces proposed for the plots 1 and 2 self-build units measure below the recommended space standards. However, there is adequate space to make these slightly larger which could be subject to an appropriately worded condition.

8.9.4 In terms of accessibility, the Highway Authority note the site's rural location and comment that the bus stops on Heathfield Road are not up to current standards. The eastbound bus stop is made up of a flag and pole only and although the westbound bus stop benefits from a shelter, this is hidden by vegetation, with little to identify the stop and there is no crossing point to it.

- 8.9.5 A technical note has been provided by the Applicant in response to the Highway Authority's comments on the previous application. In summary, the technical note explains that the proposed residential development would place a lesser demand on existing public transport infrastructure than the permitted nursing home use, with three daily trips generated as opposed to four. It explains that planning obligations should only be imposed if they meet the relevant tests including that they are necessary to make the development acceptable in planning terms; they are directly related to the development; and they are fairly and reasonably related in scale and kind to the development. The Applicant does not believe the three tests would be met by imposing a requirement to improve the bus stops. They also reference ESCC guidance on Calculating Section 106 Planning Obligations and quote paragraph 4.1.12 which states that the recommended minimum development thresholds for local sustainable accessibility improvements is 15 dwellings or more.
- 8.9.6 The Highway Authority has commented that whilst the overall trips may be acceptable, it is considered that the site may be reliant on private vehicles, and the substandard bus facilities would not encourage the use of sustainable modes of transport. A Travel Plan Statement with appropriate mitigation measures is requested to be submitted via condition to inform and encourage sustainable modes of transport.
- 8.9.7 Turning to other highway matters, if permission were granted, conditions could be imposed relating to access improvements, visibility and parking and turning requirements.

#### 8.10 Other matters

##### *Drainage*

- 8.10.1 Drainage details are currently unresolved, with the Lead Local Flood Authority objecting to the details submitted. They have advised that they are not able to recommend that the provision of the information is conditioned as it is not yet clear whether surface water runoff can be managed without increasing flood risk elsewhere and therefore are not able to remove their objection until the applicant has addressed their comments. During the previous application (RR/2020/1798/P) Southern Water advised that their initial investigations indicate that there are no public surface water sewers in the area to serve the development. They state that alternative means of draining surface water from the development are required, which should not involve disposal to a public foul sewer. The applicant has declined to provide any further information relating to drainage. It has therefore not been demonstrated that surface water runoff can be managed without increasing flood risk elsewhere.

##### *Contaminated land*

- 8.10.2 If permission is granted, Environmental Health has advised that issues relating to potential land contamination could be dealt with via conditions.

##### *Air quality*

- 8.10.3 As this is a major application, Environmental Health have advised that the need for an air quality assessment is triggered, in accordance with the Sussex Air Quality Guidance. However, as the site is neither in or near to an Air Quality Management Area and is small in scale and nature, a full air quality assessment is not necessary. Instead, an 'emissions mitigation assessment' is requested. Proposed mitigation can include the introduction of electric

charge points to encourage the take up of electric vehicles, the provision of high-speed broadband to facilitate home working, the building of cycle paths, car clubs and travel plans. However, the applicant has declined to provide an emissions mitigation assessment. Whilst the proposed development would only result in a relatively small increase in traffic generation, which is likely to create a low or negligible impact, the cumulative impact of these types of development can lead to a creep in the decline in air quality in local areas. Without the issue of air quality being assessed, it has not been demonstrated that air quality in the local area will not be adversely affected, or satisfactorily mitigated against, by the proposed development.

#### *Self-build*

8.10.4 In respect of self-build and custom housebuilding, DaSA Policy DHG6 states that on sites of 20 or more dwellings, provision for 5-10% of the total number of dwellings to be provided should be made available as serviced plots for self and custom housebuilders. As the scheme is only proposing 12 dwellings, there is no policy requirement for self-build housing to be provided on site, however this application nonetheless proposes to include two self-build houses. In line with recent changes to the PPG, where the requirement to consider self and custom build schemes in decision making is strengthened, this scheme would help in relation to meeting local need. If permission was granted, the proposed self-build housing should be secured via a Section 106 Planning Obligation and relevant planning condition used.

#### *Archaeology*

8.10.5 In relation to archaeology, if permission were granted, conditions could secure a programme of archaeological works.

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## **9.0 PLANNING BALANCE & CONCLUSION**

- 9.1 The Council has currently only 2.87 years of a required 5-year housing supply, which means that the presumption in favour of sustainable development outlined in paragraph 11 d) of the National Planning Policy Framework is applicable to Rother unless, i) the application of policies in the National Planning Policy Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or ii) any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the National Planning Policy Framework taken as a whole.
- 9.2 The proposed development offers many benefits including the re-use of a brownfield site, together with the economic and social benefits associated with the provision of 12 additional dwellings. However, whilst the dwellings would make a useful contribution to the housing stock in the district, they would not count towards the residual housing needs of the village of Burwash given that the Core Strategy sets out that there is no residual housing requirement in Burwash Common.
- 9.3 Despite the benefits outlined, in accordance with paragraph 11 d) i) of the National Planning Policy Framework, the design issues and consequent harm to the AONB provides a clear reason for refusing the development. On top of this, there are concerns relating to the living conditions of future occupiers of some of the proposed units; the development would result in the unjustified

loss of a community facility; and affordable housing has not been secured. It has also not been satisfactorily demonstrated that drainage or air quality issues would be satisfactorily addressed. Having regard to paragraph 11 d) ii) the proposed development is not considered to comply with the National Planning Policy Framework when considered as whole.

- 9.4 The proposed development does not comply with Rother Local Plan Core Strategy or DaSA policies or the various provisions contained within the National Planning Policy Framework when considered as a whole. For the reasons explained, the application could not have been supported.

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**RECOMMENDATION: REFUSE (FULL PLANNING)**

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**REASONS FOR REFUSAL:**

1. The proposed development is not of an acceptable standard of design and would be harmful to the character and appearance of the High Weald Area of Outstanding Natural Beauty. The two self-build dwellings would occupy plots disproportionate in size to their footprint and would appear cramped and out of character with the more spacious plots within the locality. The parking area proposed in the southern part of the site includes large expanses of hardstanding with left over and ambiguous space, which includes a lack of definition and enclosure to Plots 3, 4 and 5, and tall close boarded fencing to the rear of Plots 6, 7 and 8, all of which would result in a very suburban development, out of keeping with the prevailing pattern and character of the High Weald. In addition, large dormers are proposed on the dwellings, resulting in a top-heavy appearance, together with a squat gabled pediment to the south elevation of the apartment block. Overall the development is contrary to Policies OSS4 (iii), EN1 (i) and EN3 (i) (ii) of the Rother Local Plan Core Strategy, Policies DEN1 and DEN2 of the Rother Development and Site Allocations Local Plan and paragraphs 130 and 176 of the National Planning Policy Framework.
2. The proposed development would provide a poor level of amenity to future occupiers of certain units of accommodation. The private rear garden area to the Plot 2 self-build unit would be overshadowed by large trees on the rear boundary, which would severely constrain its usability and would offer a poor level of amenity to future occupiers. The footpath immediately to north of flat 2 would result in other residents being able to walk past the window and have direct views into the bedroom which would create privacy issues and have an adverse impact on the amenity of occupiers of flat 2. In addition, the close proximity of the two self-build units with the facing elevations contain the only windows to some habitable rooms (bedrooms), would result in a poor level of outlook to occupiers. Overall, a poor level of amenity would be afforded to occupiers of some of these units contrary to Policy OSS4 (i) of the Rother Local Plan Core Strategy and Policy DHG7 (i) of the Rother Development and Site Allocations Local Plan.
3. It has not been satisfactorily demonstrated that the nursing home or alternative commercial or community facilities are not capable of being financially viable, contrary to Policy RA1 (iii) of the Rother Local Plan Core Strategy and Policies

CO1 (iii) (b) and DCO1 (i) and (ii) of the Rother Development and Site Allocations Local Plan.

4. Policy DHG1 (iv) (b) of the Rother Development and Site Allocations Local Plan requires 40% on-site affordable housing on schemes of six or more dwellings (reduced to 18% using the Vacant Building Credit). Affordable housing provision has not been secured by way of a legal agreement. The requirement for affordable housing to be a part of new developments is a recognised means whereby the planning system can contribute to improving access to housing for households not able to purchase or rent on the open market. In this way it promotes balanced and inclusive communities. With affordable housing not secured, the proposal fails to meet the policy requirements, contrary to Policy DHG1 (iv) (b) of the Rother Development and Site Allocations Local Plan and paragraph 64 of the National Planning Policy Framework, relating to the Vacant Building Credit.
5. It has not been satisfactorily demonstrated whether surface water runoff can be managed without increasing flood risk elsewhere. No infiltration testing has been carried out and therefore it has not been demonstrated that infiltration will be a feasible method for managing surface water runoff from the development. If infiltration is not feasible at the site, the applicant proposes discharging to the foul sewer beneath the highway. Discharging to the foul sewer is the least sustainable outfall location for surface water disposal and Southern Water raised an objection to this option for the same scheme proposed under application RR/2020/1798/P. As such, it has not been satisfactorily demonstrated that surface water runoff can be managed without increasing flood risk elsewhere contrary to Policy SRM2 of the Rother Local Plan Core Strategy and Policy DEN5 of the Rother Development and Site Allocations Local Plan.
6. It has not been demonstrated that air quality in the local area will not be adversely affected, or satisfactorily mitigated against, by the proposed development contrary to the Sussex Air Quality Guidance 2020 and Policy OSS3 (viii) of the Rother Local Plan Core Strategy.

**NOTE:**

1. The recommendation relates to the following plans:
  - Drawing No. 1531-01 revision C dated 24.09.20
  - Drawing No. 1531-02 dated March 2020
  - Drawing No. 1531-03 dated March 2020
  - Drawing No. 1531-04 revision B dated 24.09.20
  - Drawing No. 1531-05 revision B dated 24.09.20
  - Drawing No. 1531-06 revision B dated 24.09.20
  - Drawing No. 1531-07 revision B dated 24.09.20
  - Drawing No. 1531-08 revision C dated 09.11.20
  - Drawing No. 1532-01 revision C dated 24.09.20
  - Drawing No. 1532-02 dated March 2020
  - Drawing No. 1532-03 dated March 2020
  - Drawing No. 1532-04 revision B dated 24.09.20
  - Drawing No. 1532-05 revision B dated 24.09.20
  - Drawing No. 1532-06 revision C dated 09.11.20
  - Drawing No. 1532-07 revision B dated 24.09.20

Drawing No. 1532-08 revision B dated 24.09.20  
Drawing No. 1932/03 revision B dated December 2019  
Drawing No. 1932/09 revision D dated 8 February 2021  
Drawing No. 1932/11 revision E dated 8 February 2021  
Drawing No. 1932/12 revision G dated 22 March 2021  
Drawing No. 1932/13 revision D dated 22 March 2021  
Drawing No. 1932/14 revision E dated 8 February 2021  
Drawing No. 1932/15 revision C dated 8 February 2021  
Drawing No. 1932/16 revision B dated 22 March 2021  
Drawing No. 1932/17 revision C dated 9 October 2020  
Drawing No. PD-MLP-001 Revision E dated 6 October 2020

**NATIONAL PLANNING POLICY FRAMEWORK:** In accordance with the requirements of the National Planning Policy Framework (paragraph 38) and with the Town and Country Planning (Development Management Procedure) (England) Order 2015, the Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern with the proposal and determining the application within a timely manner, clearly setting out the reasons for refusal, thereby allowing the Applicant the opportunity to consider the harm caused and whether or not it can be remedied as part of a revised scheme.